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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,910	06/08/2005	Hyo-Soon Shin	110989-05069441	6702
43569	7590	03/29/2006	EXAMINER	
MAYER, BROWN, ROWE & MAW LLP 1909 K STREET, N.W. WASHINGTON, DC 20006			CHIN, RANDALL E	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 03/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/537,910

Applicant(s)

SHIN, HYO-SOON

Examiner

Randall Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12072005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. **Figures 4 and 5** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1 and 2 are objected to because of the following informalities:

Claim 1, line 3, it is unclear what "one end thereof" is exactly referring to.

Claim 2, lines 2-3, is "an end" of the rod related to the "one end" recited in claim 1, line 3?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Gueret 6,076,531 (hereinafter Gueret '531).

The patent to Gueret '531 discloses a cosmetic applicator 2 (Fig. 1), comprising a brush consisting of a plurality of bristles 5, a fixing portion (at the end of element 6 in Fig. 1) with a cavity or "hole" formed at one end thereof so that the brush is inserted into the "hole", and a "rod" 6 coupled to the fixing portion to support the fixing portion, wherein the fixing portion is made of a plastic material (col. 5, lines 36-37) and deemed to be flat, thereby securing the brush inserted into the hole in a flattened shape. Note, the brush in Fig. 1 is in a "flattened shape" when extending out of the fixing portion. Figs. 10 and 11 also show brushes in a somewhat "flattened shape." Note also, the recitation "through a pressing process" is of no patentable significance since such a recitation is drawn to a method step not germane to patentability in apparatus claims.

As for claim 2, the rod 6 is made of plastic synthetic resin, and the fixing portion is formed integrally with an end of the rod (col. 5, lines 36-37).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korea 288433.

Korea 288433 discloses a cosmetic applicator (Fig. 2), comprising a brush consisting of a plurality of bristles 20, a "fixing portion" (merely the **distal tip** portion of element 21 in Fig. 2) with a hole formed at one end thereof so that the brush is inserted into the hole, and a "rod" 21 coupled to the fixing portion to support the fixing portion, wherein the fixing is deemed to be flat (Fig. 2), thereby securing the brush inserted into the hole in a flattened shape. Note, the brush is in a "flattened shape" at least when extending out of the fixing portion. Note also, the recitation "through a pressing process" is of no patentable significance since such a recitation is drawn to a method step not germane to patentability in apparatus claims. As for the "fixing portion" being made of a plastic material, such a modification (if not already) would be obvious to provide for in order to enable mass production of the device and to make the product lighter in weight.

As for claim 2, it would have been obvious to make the rod 21 of plastic synthetic resin (if not already) in order to mass produce the device and make it lighter in weight. Also, the fixing portion is formed integrally with an end of the rod.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Gueret and Dorf are relevant to various makeup brush arrangements with "flattened" configurations.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Randall Chin
Primary Examiner
Art Unit 1744